

2009 DRAFTING REQUEST**Bill**Received: **09/24/2008**Received By: **rryan**Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**By/Representing: **Palchik**This file may be shown to any legislator: **NO**Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - misc**Extra Copies: **TJD (by e-mail)**Submit via email: **NO**

Pre Topic:

DOA:.....Palchik, BB0084 -

Topic:

WIC and TEFAP transfer to DHS; electronic benefit transfer

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			S&L
/1	rryan 09/30/2008	wjackson 10/02/2008 bkraft 10/09/2008	rschluet 10/09/2008	_____	cduerst 10/09/2008		S&L
/2	rryan 01/30/2009	bkraft 01/30/2009	mduchek 01/30/2009	_____	cduerst 01/31/2009		

FE Sent For:

<END>

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MD MD JF
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/?	rryan	1 bjk 10/7					

FE Sent For:

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2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Transfer of WIC and TEFAP to DHS and
Creation of Authority to Implement an Electronic Benefits Transfer System
- Tracking Code: BB0084
- SBO team: Health and Insurance
- SBO analyst: Laurie Palchik
 - Phone: 266-2214
 - Email: laurie.palchik@wisconsin.gov
- Agency acronym: DHS
- Agency number: 435
- Priority (Low, Medium, High): Medium

Intent:

Transfer of WIC and TEFAP to DHS:

2007 Wisconsin Act 20 transferred the administration of the WIC and TEFAP programs from the Department of Health and Family Services to the Department of Children and Families. The U.S. Department of Agriculture declared that these two programs must remain in the Division of Public Health in the Department of Health and Family Services. See Proposed Change Attached to transfer program authority from the Department of Children and Families to the Department of Health Services.

Creation of Authority to Implement an Electronic Benefits System:

Create language to allow the Department of Health Services to implement an Electronic Benefits Transfer System for WIC. See Proposed Change Attached.



LP

Department of Health Services
2009-2011 Biennial Budget Statutory Language Request
September 12, 2008

**Transfer of WIC and TEFAP to DHS and Creation of Authority to Implement
an Electronic Benefits Transfer System**

Decision Needed

Should the Department request statutory changes and funding transfers to ensure that authority to administer the Women, Infants and Children (WIC) and Temporary Emergency Food Assistance Program (TEFAP) is transferred from the Department of Children and Families to DHS? What is the best way to ensure that the WIC program can implement an electronic benefits transfer system?

Background

WIC Transfer

2007 Wisconsin Act 20, the biennial budget bill, transferred the administration of two nutrition programs, WIC and TEFAP, from the Department of Health and Family Services (DHFS) to the Department of Children and Families (DCF). After subsequent communications between the Department and the Food and Nutrition Service of the U. S. Department of Agriculture, it was decided that these two nutrition programs should remain in the Division of Public Health in DHS. Federal law requires that a state's WIC program be administered by its department of health. WIC and TEFAP are part of the Department's food and nutrition program section and, to ensure appropriate delivery of services, should remain in the same organizational structure. There would be no comparable nutrition program in DCF to oversee TEFAP.

Federal position authority for the programs has already been recreated in DHS (28.23 FED FTE in the WIC program and .50 FED FTE in the TEFAP program) through s.16.50 (3)/s.16.54 actions. The federal expenditure authority for WIC administration and aids and TEFAP salary and fringe costs was also reestablished in DHS through the same actions.

In FY 09, the Department will administer WIC and TEFAP through an MOU with DCF. In the future, program authority which allows the Department to administer the WIC and TEFAP programs must be created in DHS statutes and eliminated in DCF statutes in the 2009-11 budget. The GPR funds in WIC and TEFAP indicated in the table below which were transferred to DCF must also be transferred back to DHS.

Program	Funding to Transfer	From Appropriation	To Appropriation
TEFAP GPR position support costs	\$9,600 GPR	20.437 (2)(a)	20.435 (1)(a)
Fraudulent WIC benefit recoupments	\$129,600 PR	20.437 (2)(gr)	20.435 (1) (gr)
TEFAP food distribution costs	\$320,000 GPR	20.437 (2)(dn)	20.435 (1)(dn)
Match for Farmers' Market Program	\$179,300 GPR	20.437 (2)(em)	20.435 (1)(em)

Electronic Benefit Transfer System

The Department is currently in the process of requesting planning funds from the federal government to study the feasibility of implementing an electronic benefit transfer (EBT) system for the WIC program in Wisconsin. There are a number of benefits associated with EBT.

- Such a system will produce some efficiencies in the delivery and processing of WIC benefits and assist in the control of food costs to the program.
- Because program-approved food items are programmed into the EBT system, there will be fewer unintentional mistakes, such as giving unauthorized foods to a customer.
- EBT provides intrinsic benefits to the participant, such as eliminating the stigma associated with using paper vouchers at the store.
- EBT provides immediate cash flow to the retailers.

Current Language

WIC Transfer: Current language to administer WIC and TEFAP is in Chapter 49. (See below.)

EBT: There is no language currently in statutes allowing the Department of Health Services to implement an EBT system for WIC. However, s.49.131 allows the Department of Children and Families to implement an EBT system for any benefit for which federal authorization has been granted.

Proposed Change

WIC Transfer

To transfer program authority from DCF to DHS, the following sections will need to be renumbered:

renumber 49.171 (title) to 46.75 (title)

49.171(1) to 46.75(1)

49.171(2) (title) to 46.75(2) title

49.171(2)(a) to 46.75(2)(a) and amend to read: "46.75(2)(a) From the appropriation under s. 20.435(1)(dn), the department shall award grants to agencies to operate food distribution programs that qualify for participation in the emergency food assistance program under P.L. 98-8, as amended."

Food Distribution Grants

was (5)(dn) in '05 stats

49.171(2)(b) to 46.75(2)(b)

49.171(3) to 46.75(3)

49.172 (intro.) to 46.76 (intro.)

49.172(1) to 46.76(1)

49.172(2) to 46.76(2)

49.172(4) to 46.76(4)

49.172(5) to 46.76(5)

49.1715 to 46.77 and amend to read "46.77 Food distribution administration. From the appropriation under s. 20.435(1)(dn) [which will be affected by separate Chapter 20 changes combining programs 01 and 05], the department shall allocate funds to eligible recipient agencies, as defined in the emergency food assistance act, P.L. 98-8, section 201A, as amended, for the storage, transportation, and distribution of commodities provided under the hunger prevention act of 1988, P.L. 100-435, as amended."

49.17 (title) to 253.06 (title)

49.17(1) to 253.06(1)

49.17(2) to 253.06(2) and amend to read: "253.06(2) USE OF FUNDS. From the appropriation under s. 20.435(1)(em), the department shall supplement the provision of supplemental foods, nutrition education, and other services, including nutritional counseling, to low-income women, infants, and children who meet the eligibility criteria under the federal special supplemental food program for women, infants, and children authorized under 42 USC 1786. To the extent that funds are available under this section and to the extent that funds are available under 42 USC 1786, the department shall provide the supplemental food, nutrition education, and other services authorized under this section and shall administer that provision in every county. The department may enter into contracts for this purpose."

49.17(3) to 253.06(3)

49.17(3m) to 253.06(3m)

49.17(4) to 253.06(4)

49.17(5) title to 253.06(5)(title)

49.17(5)(a) to 253.06(5)(a)

49.17(5)(b) to 253.06 (5)(b)

49.17(5)(c) to 253.06 (5)(c)

49.17(5)(d) to 253.06(5)(d)

49.17(5)(e) to 253.06(5)(e) and amend to read: "253.06(5)(e) The suspension or termination of authorization of a vendor or eligibility of a participant shall be effective beginning on the 15th day after receipt of the notice of suspension or termination. All forfeitures, recoupments, and enforcement assessments shall be paid to the department within 15 days after receipt of notice of assessment or, if the forfeiture, recoupment, or enforcement assessment is contested under sub (6), within 10 days after receipt of the final decision after exhaustion of administrative review, unless the final decision is adverse to the department or unless the final decision is appealed and the decision is stayed by court order under sub. (7). The department shall remit all forfeitures paid to the secretary of administration for deposit in the school fund. The department shall deposit all enforcement assessments in the appropriation under s. 20.435(1)(gr)."

49.17(5)(f) to 253.06(5)(f)
49.17(6) to 253.06(6)
49.17(7) to 253.06(7)
49.17(8) to 253.06(8)

In addition, the standard non-statutory language transferring the programs, resources and personnel back to DHS will be necessary.

EBT

Create language similar to s.49.131 for the Department of Health Services to allow it to implement any EBT system which a federal agency has authorized.

Desired Effective Date:	Upon passage of the Biennial Budget
Agency:	DHS
Agency Contact:	Ellen Hadidian
Phone:	267-5147

Date: May 6, 2008

To: David P. Schmiedicke
State Budget Director

From: Susan Jablonsky
Executive Policy and Budget Analyst

Subject: Temporary Emergency Food Assistance Program (TEFAP)

REQUEST:

The Department requests .50 permanent FED FTE and \$69,100 FED expenditure authority for the Division of Public Health in appropriation s. 20.435 (1) (m), Federal Project Operations, [numeric 149] in FY09. Funding to support the operational costs will be provided by the Temporary Emergency Food Assistance Program (TEFAP) grant. This request is to be offset by a reduction of .50 FED FTE and \$69,100 FED in appropriation s. 20.437 (2)(nn) [numeric 249] in the Department of Children and Families (DCF) in FY09.

ANALYSIS:

The TEFAP program and its supporting position were transferred to the new Department of Children and Families, along with the federal Women, Infants, and Children (WIC) program, in the 2007-09 Biennial Budget as part of the creation of DCF. The intent of the budget was to consolidate all programs related to children in DCF. However, federal authorities have informed DHFS that federal regulations require the WIC program and the associated TEFAP grant to be administered by the State's health department. Federal staff have determined that DCF is not comparable to the state's health department and would only to continue to fund WIC and TEFAP if the programs remain at DHFS. In order to comply with federal regulations and maintain WIC and TEFAP funding, both programs will remain in DHFS. WIC and TEFAP are part of the Department's food and nutrition program section and, to ensure appropriate delivery of services and to meet federal requirements, should remain in the same organizational structure. The funding and FTE are exactly the same as what was transferred to the new department. There will be no net gain or loss of positions to the State as a result of this request.

Since the TEFAP program will remain in DHFS, position and expenditure authority for the program will no longer be needed in the Department of Children and Families and can be deleted

RECOMMENDATION:

Approve the request.

David P. Schmiedicke, State Budget Director

Page 2

September 29, 2008

Please advise:

- ☐ Approve the [request or recommendation].
- ☐ Deny the [request or recommendation].
- ☐ Meet to discuss the [request or recommendation].

Date _____

Date: May 6, 2008

To: David P. Schmiedicke
State Budget Director

From: Susan Jablonsky
Executive Policy and Budget Analyst

Subject: Women, Infants and Children Program (WIC)

REQUEST:

The Department of Health and Family Services (DHFS) requests 28.23 permanent FED FTE and \$5,433,800 FED expenditure authority for the Division of Public Health in appropriation s. 20.435 (1) (n), WIC Operations, [numeric 148] in FY09. Funding to support the operational costs will be provided by the Women, Infants and Children (WIC) grant. This request is to be offset by a reduction of 28.23 FED FTE and \$5,433,800 FED in appropriation s. 20.437 (2)(nn) [numeric 248] in the Department of Children and Families (DCF) in FY09.

The Department also requests an increase of \$64,152,300 FED in appropriation s. 20.435 (5) (na), WIC Aids, [numeric 547] and a corresponding reduction of \$64,152,300 in appropriation s. 20.437 (2) (na) [numeric 246] in DCF in FY09. This transfer of expenditure authority will allow DHFS to continue to allocate federal WIC aids funding to individuals.

ANALYSIS:

The WIC program and supporting positions were transferred to the new DCF in the 2007-09 Biennial Budget as part of the creation of DCF. The intent of the budget was to consolidate all programs related to children in DCF. However, federal authorities have informed DHFS that federal regulations require the WIC program to be administered by the State's health department. Federal regional staff have determined that DCF is not comparable to the state's health department and would only continue to provide WIC funds if the program is housed at DHFS. In order to comply with federal regulations and maintain WIC funding, DHFS must continue to have oversight for WIC. The funding and staffing levels in this request are the exact amounts and FTE that were transferred in the budget. There will be no net gain or loss of positions to the State as a result of this request.

Since the WIC program will remain in DHFS, position and expenditure authority for the program will no longer be needed in the Department of Children and Families and can be deleted.

David P. Schmiedicke, State Budget Director

Page 2

September 29, 2008

RECOMMENDATION:

Approve the request.

Please advise:

- ☐ Approve the [request or recommendation].
- ☐ Deny the [request or recommendation].
- ☐ Meet to discuss the [request or recommendation].

Date _____



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0394

RLR:.....

In 9/30/08

PMR

DOA:.....Palchik, BB0084 - WIC and TEFAP transfer to DHS; electronic benefit transfer

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SAV
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do not gen.

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Currently, the state administers The Emergency Assistance Food Program (TEFAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to provide food and information about nutrition to low-income people. In addition, a state agency must annually develop a hunger prevention plan. 2005 Wisconsin Act 20 transferred the responsibility for administering TEFAP and WIC and the responsibility for developing a hunger prevention plan from the former Department of Health and Family Services to DCF. This bill transfers the responsibilities for administering TEFAP and WIC and for developing a hunger prevention plan to DHS.

Also under current law, DHS is required to deliver Food Stamp benefits by means of an electronic benefit transfer system. This bill authorizes DHS to deliver benefits that DHS administers by means of an electronic benefit transfer system if DHS: obtains any necessary federal approval for using an electronic benefit transfer system; promulgates a rule adopting an electronic benefits transfer system; and allows county and tribal governments to opt out of the electronic benefit transfer

FE-SL ✓
system if the cost of delivering benefits electronically is greater than delivering benefits by other means. ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.437 (2) (dn) of the statutes is renumbered 20.435 (5) (dn) and
2 amended to read:

3 ✓ 20.435 (5) (dn) *Food distribution grants.* The amounts in the schedule for
4 grants for food distribution programs under ss. ~~49.171~~ 46.75 and ~~49.1715~~ 46.77.

History: 2007 a. 20 ss. 331, 335, 340, 341, 342, 344 to 352, 354 to 368g, 374 to 376, 380, 381, 401, 404, 405, 423 to 437, 447, 448, 450, 451, 453, 453p, 454, 456 to 458, 460e, 463, 465 to 472, 474 to 480, 9121 (6) (a).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats. ✓

****NOTE: If the DHS appropriation reorganization draft (LRB-0247) is included in the budget, s. 20.437 (2) (dn) should instead be renumbered s. 20.435 (1) (dn). ✓

5 **SECTION 2.** 20.437 (2) (em) of the statutes is renumbered 20.435 (5) (em) and
6 amended to read:

7 ✓ 20.435 (5) (em) *Supplemental food program for women, infants and children*
8 *benefits.* As a continuing appropriation, the amounts in the schedule to provide a
9 state supplement under s. 49.17 253.06 to the federal special supplemental food
10 program for women, infants, and children authorized under 42 USC 1786.

History: 2007 a. 20 ss. 331, 335, 340, 341, 342, 344 to 352, 354 to 368g, 374 to 376, 380, 381, 401, 404, 405, 423 to 437, 447, 448, 450, 451, 453, 453p, 454, 456 to 458, 460e, 463, 465 to 472, 474 to 480, 9121 (6) (a).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats. ✓

****NOTE: If the DHS appropriation reorganization draft (LRB-0247) is included in the budget, s. 20.437 (2) (em) should instead be renumbered s. 20.435 (1) (em). ✓

11 **SECTION 3.** 20.437 (2) (gr) of the statutes is renumbered 20.435 (1) (gr) and
12 amended to read:

13 ✓ 20.435 (1) (gr) *Supplemental food program for women, infants, and children*
14 *administration.* All moneys received from the supplemental food enforcement
15 surcharges on fines, forfeitures, and recoupments that are levied by a court under
16 s. 49.17 253.06 (4) (c) and on forfeitures and recoupments that are levied by the

1 department under s. 49.17 253.06 (5) (c) to finance fraud reduction in the
2 supplemental food program for women, infants, and children under s. 49.17 253.06.

History: 2007 a. 20 ss. 331, 335, 340, 341, 342, 344 to 352, 354 to 368g, 374 to 376, 380, 381, 401, 404, 405, 423 to 437, 447, 448, 450, 451, 453, 453p, 454, 456 to 458, 460e, 463, 465 to 472, 474 to 480, 9121 (6) (a).

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 **SECTION 4.** 46.028 of the statutes is created to read:

4 **46.028 Electronic benefit transfer.** The department may deliver benefits
5 that are administered by the department to recipients of the benefits by an electronic
6 benefit transfer system if all of the following conditions are satisfied:

7 (1) The department obtains any authorization from a federal agency that is
8 required under federal law to deliver the benefits by an electronic benefit transfer
9 system.

10 (2) The department promulgates an administrative rule to deliver the benefits
11 by an electronic benefits transfer system.

12 (3) The department does not require a county or tribal governing body to use
13 the electronic benefit transfer system if the costs to the county or tribal government
14 of delivering the benefits by the electronic benefit transfer system would be greater
15 than the costs to the county or tribal government of delivering the benefits by means
16 other than an electronic benefit transfer system.

17 **SECTION 5.** 49.797 (2) (a) of the statutes is amended to read:

18 **49.797 (2) (a)** Except Notwithstanding s. 46.028 and except as provided in par.

19 (b) and sub. (8), the department shall administer a statewide program to deliver food
20 stamp benefits to recipients of food stamp benefits by an electronic benefit transfer
21 system. All suppliers, as defined in s. 49.795 (1) (d), may participate in the delivery
22 of food stamp benefits under the electronic benefit transfer system. The department
23 shall explore methods by which nontraditional retailers, such as farmers' markets,

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1 may participate in the delivery of food stamp benefits under the electronic benefit
2 transfer system.

History: 2001 a. 16 ss. 1656u to 1656ue, 1656u to 1656ut; Stats. 2001 s. 49.797.

3 **SECTION 6. 49.143 (2) (b) of the statutes is amended to read:**

4 **✓ 49.143 (2) (b)** Establish a children's services network. The children's services
5 network shall provide information about community resources available to the
6 dependent children in a Wisconsin works group, including charitable food and
7 clothing centers; subsidized and low-income housing; transportation subsidies; the
8 state supplemental food program for women, infants and children under s. ~~49.17~~
9 253.06; and child care programs. In a county having a population of 500,000 or more,
10 a children's services network shall, in addition, provide a forum for those persons
11 who are interested in the delivery of child welfare services and other services to
12 children and families in the geographical area under sub. (6) served by that
13 children's services network to communicate with and make recommendations to the
14 providers of those services in that geographical area with respect to the delivery of
15 those services in that area.

History: 1995 a. 216, 289; 1997 a. 27, 36, 236, 318; 1999 a. 9, 32; 2001 a. 16; 2005 a. 25; 2007 a. 20.

16 **SECTION 7. 49.17 of the statutes is renumbered 253.06, and 253.06 (2) and (5)**

17 **(e), as renumbered, are amended to read:**

18 **253.06 (2) USE OF FUNDS.** From the appropriation under s. ~~20.437 (2)~~ 20.435
19 (5) (em), the department shall supplement the provision of supplemental foods,
20 nutrition education, and other services, including nutritional counseling, to
21 low-income women, infants, and children who meet the eligibility criteria under the
22 federal special supplemental food program for women, infants, and children
23 authorized under 42 USC 1786. To the extent that funds are available under this
24 section and to the extent that funds are available under 42 USC 1786, the

department shall provide the supplemental food, nutrition education, and other services authorized under this section and shall administer that provision in every county. The department may enter into contracts for this purpose.

✓ (5) (e) The suspension or termination of authorization of a vendor or eligibility of a participant shall be effective beginning on the 15th day after receipt of the notice of suspension or termination. All forfeitures, recoupments, and enforcement assessments shall be paid to the department within 15 days after receipt of notice of assessment or, if the forfeiture, recoupment, or enforcement assessment is contested under sub. (6), within 10 days after receipt of the final decision after exhaustion of administrative review, unless the final decision is adverse to the department or unless the final decision is appealed and the decision is stayed by court order under sub. (7). The department shall remit all forfeitures paid to the secretary of administration for deposit in the school fund. The department shall deposit all enforcement assessments in the appropriation under s. ~~20.437 (2)~~ [✓] 20.435 (1) (gr). plain space

History: 1985 a. 29; 1987 a. 27; 1989 a. 31; 1993 a. 27 s. 373; Stats. 1993 s. 253.06; 1995 a. 407; 1997 a. 27, 283; 2001 a. 109; 2003 a. 33, 139; 2007 a. 20 ss. 3040 to 3055; Stats. 2007 s. 49.17.

SECTION 8. 49.171 of the statutes is renumbered 46.75, and 46.75 (2) (a), as renumbered, is amended to read:

✓ 46.75 (2) (a) From the appropriation under s. ~~20.437 (2)~~ [✓] 20.435 (5) (dn), the department shall award grants to agencies to operate food distribution programs that qualify for participation in the emergency food assistance program under P.L. 98-8, as amended [✓] 7 USC ch. 102.

History: 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27; 1997 a. 27; 2005 a. 25; 2007 a. 20 ss. 1168 to 1173; Stats. 2007 s. 49.171.

***NOTE: I replaced the public law citation with a citation to the U.S. Code. Please verify that it is correct. ✓

SECTION 9. 49.1715 of the statutes is renumbered 46.77 and amended to read:

✓ **46.77 Food distribution administration.** From the appropriation under s.
 20.437 (2) 20.435 (5) (dn), the department shall allocate funds to eligible recipient
 agencies, as defined ^{plain text} ~~in the emergency food assistance act, P.L. 98-8, section 201A,~~
 as amended 7 USC 7501 (3), for the storage, transportation, and distribution of
 commodities provided under the ~~hunger prevention act of 1988, P.L. 100-435, as~~
 amended 7 USC ch. 102.

History: 1989 a. 31; 1991 a. 39; 1993 a. 16; 1995 a. 27; 1997 a. 27; 2005 a. 25; 2007 a. 20 s. 1180; Stats. 2007 s. 49.1715 ✓

SECTION 10. 49.172 of the statutes is renumbered 49.76. ✓

SECTION 11. 227.54 of the statutes is amended to read: ✓

✓ **227.54 Stay of proceedings.** The institution of the proceeding for review
 shall not stay enforcement of the agency decision. The reviewing court may order a
 stay upon such terms as it deems proper, except as otherwise provided in ss. 49.17
 (7), 96.43 [s. 196.43], 253.06, and 448.02 (9).
^{plain comma}
^{scored comma}

NOTE: NOTE: This section is shown as amended eff. 1-1-09 by 2007 Wis. Act 196. The correct cross-reference is shown in brackets. Corrective legislation is pending. Prior to 1-1-09, this section reads: NOTE:

227.54 Stay of proceedings. The institution of the proceeding for review shall not stay enforcement of the agency decision. The reviewing court may order a stay upon such terms as it deems proper, except as otherwise provided in ss. 49.17 (7), 196.43, 448.02 (9), and 551.62.

History: 1983 a. 27; 1985 a. 182 s. 39; Stats. 1985 s. 227.54; 1987 a. 5; 1997 a. 27, 311; 2007 a. 20, 196.

SECTION 12. 814.75 (22m) of the statutes is amended to read:

✓ **814.75 (22m)** The supplemental food enforcement surcharge under s. 49.17
253.06 (4) (c).

History: 2003 a. 139; 2005 a. 25, 172, 282, 288; 2005 a. 433 ss. 11 to 12; 2007 a. 20, 84, 97.

SECTION 13. 814.76 (15m) of the statutes is amended to read:

✓ **814.76 (15m)** The supplemental food enforcement surcharge under s. 49.17
253.06 (4) (c).

History: 2003 a. 139; 2005 a. 25, 282, 288; 2005 a. 433 ss. 13 to 14; 2007 a. 20, 84, 97.

SECTION 14. 814.80 (11) of the statutes is amended to read:

✓ **814.80 (11)** The supplemental food enforcement surcharge under s. 49.17
253.06 (4) (c).

History: 2003 a. 139; 2005 a. 25; 2007 a. 20, 84.

SECTION 15. 973.05 (2m) (r) of the statutes is amended to read:

1 ✓ 973.05 (2m) (r) To payment of the enforcement surcharge under s. 49.17 253.06 ✓

2 (4) (c) until paid in full.

History: 1977 c. 29; 1979 c. 34, 111; 1981 c. 20, 88, 352; 1983 a. 27, 535; 1985 a. 36; 1987 a. 27, 339, 398; 1989 a. 64, 107, 359; 1991 a. 39; 1993 a. 16; 1995 a. 227, 438, 448; 1997 a. 3, 27, 35, 148, 248; 1999 a. 9, 32; 2001 a. 16, 56, 105; 2003 a. 139; 2005 a. 25, 149, 282, 433; 2005 a. 443 s. 265; 2007 a. 20, 97.

3 **SECTION 9122. Nonstatutory provisions; Health Services.** ✓

4 (1) TRANSFER OF FOOD AND HUNGER PREVENTION PROGRAMS. (a) Assets and ✓

5 liabilities. On the effective date of this paragraph, the assets and liabilities of the ✓
6 department of children and families that are primarily related to the food ✓
7 distribution programs under section 49.171, 2007 stats., and section 49.1715, 2007 ✓
8 stats., to the hunger prevention program under section 49.172, 2007 stats., and to ✓
9 the state supplemental food program under section 49.17, 2007 stats., as determined ✓
10 by the secretary of administration, shall become the assets and liabilities of the ✓
11 department of health services. ✓

12 (b) Employee transfers. The classified positions, and incumbent employees ✓
13 holding positions, in the department of children and families that are funded with ✓
14 general purpose revenue or program revenue and are primarily related to the food ✓
15 distribution programs under section 49.171, 2007 stats., and section 49.1715, 2007 ✓
16 stats., to the hunger prevention program under section 49.172, 2007 stats., and to ✓
17 the state supplemental food program under section 49.17, 2007 stats., as determined ✓
18 by the secretary of administration, are transferred to the department of health ✓
19 services.

20 (c) Employee status. Employees transferred under paragraph (b) shall have the ✓
21 same rights and status under subchapter V of chapter 111 and chapter 230 of the ✓
22 statutes, as affected by this act, in the department of health services that they ✓
23 enjoyed in the department of children and families immediately before the transfer.

1 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
2 has attained permanent status in class is required to serve a probationary period. ✓

3 (d) *Tangible personal property.* ✓ On the effective date of this paragraph, all
4 tangible personal property, including records, of the department of children and
5 families that is primarily related to the food distribution programs under section
6 49.171, 2007 stats., and section 49.1715, 2007 stats., to the hunger prevention
7 program under section 49.172, 2007 stats., and to the state supplemental food
8 program under section 49.17, 2007 stats., as determined by the secretary of
9 administration, shall be transferred to the department of health services. ✓

10 (e) *Contracts.* ✓ All contracts entered into by the department of health and family
11 services, before July 1, 2008, or by the department of children and families that are
12 in effect on the effective date of this paragraph and that are primarily related to the
13 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
14 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and
15 to the state supplemental food program under section 49.17, 2007 stats., as
16 determined by the secretary of administration, remain in effect and are transferred
17 to the department of health services. The department of health services shall carry
18 out any such contractual obligations unless modified or rescinded by the department
19 of health services to the extent allowed under the contract. ✓

20 (em) *Pending matters.* ✓ Any matter pending with the department of children
21 and families on the effective date of this paragraph that is primarily related to the
22 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
23 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and
24 to the state supplemental food program under section 49.17, 2007 stats., as
25 determined by the secretary of administration, is transferred to the department of

1 health services and all materials submitted to or actions taken by the department
2 of children and families with respect to the pending matter are considered as having
3 been submitted to or taken by the department of health services.

4 (f) *Rules and orders.* All administrative rules that are primarily related to the
5 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
6 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and
7 to the state supplemental food program under section 49.17, 2007 stats., as
8 determined by the secretary of administration, and that are in effect on the effective
9 date of this paragraph remain in effect until their specified expiration dates or until
10 amended or repealed by the department of health services. All orders issued by the
11 department of health and family services, before July 1, 2008, or by the department
12 of children and families that are primarily related to the food distribution programs
13 under section 49.171, 2007 stats., and section 49.1715, 2007 stats., to the hunger
14 prevention program under section 49.172, 2007 stats., and to the state supplemental
15 food program under section 49.17, 2007 stats., as determined by the secretary of
16 administration, and that are in effect on the effective date of this paragraph remain
17 in effect until their specified expiration dates or until modified or rescinded by the
18 department of health services.

19 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0394/1dn

RLR:.....

Date

l b j k

Laurie Palchik: ✓

I renumbered the TEFAP and WIC appropriations to the same ch. 20 subsections and paragraphs that were used in the 2005 statutes, prior to creation of the DCF, rather than assuming that the DHS appropriations reorganization draft will be included in the budget. I have indicated in ****Notes how the appropriations should be renumbered if the DHS appropriations reorganization draft is included in the budget. ✓

I substituted U.S. Code annotations for Public Law citations in the TEFAP language. ✓
Please verify that the U.S. Code citations are correct. ✓

Please review the nonstatutory provisions regarding transfer of TEFAP, WIC, and hunger prevention to DHS, particularly the provisions regarding contracts and orders. ✓

> I gave continuing effect not only to contracts and orders issued by DCS, but also to those that were issued by DHFS before July 1, 2008, that may still be in effect on the effective date of this bill. ✓

Robin Ryan
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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0394/1dn

RLR:bjk:rs

October 9, 2008

Laurie Palchik:

I renumbered the TEFAP and WIC appropriations to the same ch. 20 subsections and paragraphs that were used in the 2005 statutes, prior to creation of the DCF, rather than assuming that the DHS appropriations reorganization draft will be included in the budget. I have indicated in ****Notes how the appropriations should be renumbered if the DHS appropriations reorganization draft is included in the budget.

I substituted U.S. Code annotations for Public Law citations in the TEFAP language. Please verify that the U.S. Code citations are correct.

Please review the nonstatutory provisions regarding transfer of TEFAP, WIC, and hunger prevention to DHS, particularly the provisions regarding contracts and orders. I gave continuing effect not only to contracts and orders issued by DCF, but also to those that were issued by DHFS before July 1, 2008, that may still be in effect on the effective date of this bill.

Robin Ryan
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State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0394/1

RLR:bjk:rs

Lstay

DOA:.....Palchik, BB0084 - WIC and TEFAP transfer to DHS; electronic benefit transfer

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SAV
X-ref ✓

do not gen.

RMR

2W

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Currently, the state administers The Emergency Food Assistance Program (TEFAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to provide food and information about nutrition to low-income people. In addition, a state agency must annually develop a hunger prevention plan. 2007 Wisconsin Act 20 transferred the responsibility for administering TEFAP and WIC and the responsibility for developing a hunger prevention plan from the former Department of Health and Family Services to DCF. This bill transfers the responsibilities for administering TEFAP and WIC and for developing a hunger prevention plan to DHS.

Also under current law, DHS is required to deliver Food Stamp benefits by means of an electronic benefit transfer system. This bill authorizes DHS to deliver benefits that DHS administers by means of an electronic benefit transfer system if DHS: obtains any necessary federal approval for using an electronic benefit transfer system; promulgates a rule adopting an electronic benefits transfer system; and allows county and tribal governments to opt out of the electronic benefit transfer system if the cost of delivering benefits electronically is greater than delivering benefits by other means.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 20.437 (2) (dn) of the statutes is renumbered 20.435 (5) (dn) and
2 amended to read:

3 20.435 (5) (dn) *Food distribution grants*. The amounts in the schedule for
4 grants for food distribution programs under ss. ~~49.171~~ 46.75 and ~~49.1715~~ 46.77.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: If the DHS appropriation reorganization draft (LRB-0247) is included in the budget, s. 20.437 (2) (dn) should instead be renumbered s. 20.435 (1) (dn).

5 SECTION 2. 20.437 (2) (em) of the statutes is renumbered 20.435 (5) (em) and
6 amended to read:

7 20.435 (5) (em) *Supplemental food program for women, infants and children*
8 *benefits*. As a continuing appropriation, the amounts in the schedule to provide a
9 state supplement under s. ~~49.17~~ 253.06 to the federal special supplemental food
10 program for women, infants, and children authorized under 42 USC 1786.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: If the DHS appropriation reorganization draft (LRB-0247) is included in the budget, s. 20.437 (2) (em) should instead be renumbered s. 20.435 (1) (em).

11 SECTION 3. 20.437 (2) (gr) of the statutes is renumbered 20.435 (1) (gr) and
12 amended to read:

13 20.435 (1) (gr) *Supplemental food program for women, infants, and children*
14 *administration*. All moneys received from the supplemental food enforcement
15 surcharges on fines, forfeitures, and recoupments that are levied by a court under
16 s. ~~49.17~~ 253.06 (4) (c) and on forfeitures and recoupments that are levied by the

1 department under s. ~~49.17~~ 253.06 (5) (c) to finance fraud reduction in the
2 supplemental food program for women, infants, and children under s. ~~49.17~~ 253.06.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 **SECTION 4.** [✓] 46.028 of the statutes is created to read:

4 **46.028 Electronic benefit transfer.** The department may deliver benefits
5 that are administered by the department to recipients of the benefits by an electronic
6 benefit transfer system if all of the following conditions are satisfied:

7 (1) The department obtains any authorization from a federal agency that is
8 required under federal law to deliver the benefits by an electronic benefit transfer
9 system.

10 (2) The department promulgates an administrative rule to deliver the benefits
11 by an electronic benefits transfer system.

12 (3) The department does not require a county or tribal governing body to use
13 the electronic benefit transfer system if the costs to the county or tribal government
14 of delivering the benefits by the electronic benefit transfer system would be greater
15 than the costs to the county or tribal government of delivering the benefits by means
16 other than an electronic benefit transfer system.

17 [✓]**SECTION 5.** 49.143 (2) (b) of the statutes is amended to read:

18 49.143 (2) (b) Establish a children's services network. The children's services
19 network shall provide information about community resources available to the
20 dependent children in a Wisconsin works group, including charitable food and
21 clothing centers; subsidized and low-income housing; transportation subsidies; the
22 state supplemental food program for women, infants and children under s. ~~49.17~~
23 253.06; and child care programs. In a county having a population of 500,000 or more,

1 a children's services network shall, in addition, provide a forum for those persons
2 who are interested in the delivery of child welfare services and other services to
3 children and families in the geographical area under sub. (6) served by that
4 children's services network to communicate with and make recommendations to the
5 providers of those services in that geographical area with respect to the delivery of
6 those services in that area.

7 **SECTION 6.** 49.17 of the statutes is renumbered 253.06, and 253.06 (2) and (5)
8 (e), as renumbered, are amended to read:

9 **253.06 (2) USE OF FUNDS.** From the appropriation under s. ~~20.437 (2)~~ 20.435 (5)
10 (em), the department shall supplement the provision of supplemental foods,
11 nutrition education, and other services, including nutritional counseling, to
12 low-income women, infants, and children who meet the eligibility criteria under the
13 federal special supplemental food program for women, infants, and children
14 authorized under 42 USC 1786. To the extent that funds are available under this
15 section and to the extent that funds are available under 42 USC 1786, the
16 department shall provide the supplemental food, nutrition education, and other
17 services authorized under this section and shall administer that provision in every
18 county. The department may enter into contracts for this purpose.

19 **(5) (e)** The suspension or termination of authorization of a vendor or eligibility
20 of a participant shall be effective beginning on the 15th day after receipt of the notice
21 of suspension or termination. All forfeitures, recoupments, and enforcement
22 assessments shall be paid to the department within 15 days after receipt of notice
23 of assessment or, if the forfeiture, recoupment, or enforcement assessment is
24 contested under sub. (6), within 10 days after receipt of the final decision after
25 exhaustion of administrative review, unless the final decision is adverse to the

1 department or unless the final decision is appealed and the decision is stayed by
2 court order under sub. (7). The department shall remit all forfeitures paid to the
3 secretary of administration for deposit in the school fund. The department shall
4 deposit all enforcement assessments in the appropriation under s. ~~20.437 (2)~~ 20.435
5 (1) (gr). ✓

6 **SECTION 7.** 49.171 of the statutes is renumbered 46.75, and 46.75 (2) (a), as
7 renumbered, is amended to read:

8 46.75 (2) (a) From the appropriation under s. ~~20.437 (2)~~ 20.435 (5) (dn), the
9 department shall award grants to agencies to operate food distribution programs
10 that qualify for participation in the emergency food assistance program under P.L.
11 ~~98-8~~, as amended 7 USC ch. 102.

****NOTE: I replaced the public law citation with a citation to the U.S. Code. Please
verify that it is correct. ✓

12 **SECTION 8.** 49.1715 of the statutes is renumbered 46.77 and amended to read:

13 **46.77 Food distribution administration.** From the appropriation under s.
14 ~~20.437 (2)~~ 20.435 (5) (dn), the department shall allocate funds to eligible recipient
15 agencies, as defined in ~~the emergency food assistance act, P.L. 98-8, section 201A,~~
16 ~~as amended 7 USC 7501 (3),~~ for the storage, transportation, and distribution of
17 commodities provided under ~~the hunger prevention act of 1988, P.L. 100-435,~~ as
18 amended 7 USC ch. 102.

19 **SECTION 9.** 49.172 of the statutes is renumbered 49.76. ✓

20 **SECTION 10.** 49.797 (2) (a) of the statutes is amended to read:

21 49.797 (2) (a) ~~Except~~ Notwithstanding s. 46.028 and except as provided in par.
22 (b) and sub. (8), the department shall administer a statewide program to deliver food
23 stamp benefits to recipients of food stamp benefits by an electronic benefit transfer

INS
5-19

1 system. All suppliers, as defined in s. 49.795 (1) (d), may participate in the delivery
2 of food stamp benefits under the electronic benefit transfer system. The department
3 shall explore methods by which nontraditional retailers, such as farmers' markets,
4 may participate in the delivery of food stamp benefits under the electronic benefit
5 transfer system.

6 **SECTION 11.** 227.54 of the statutes is amended to read:

7 **227.54 Stay of proceedings.** The institution of the proceeding for review
8 shall not stay enforcement of the agency decision. The reviewing court may order a
9 stay upon such terms as it deems proper, except as otherwise provided in ss. 49.17
10 (7), ~~96.43~~ 196.43, 253.06, and 448.02 (9).

11 **SECTION 12.** 814.75 (22m) of the statutes is amended to read:

12 814.75 (**22m**) The supplemental food enforcement surcharge under s. 49.17
13 253.06 (4) (c).

14 **SECTION 13.** 814.76 (15m) of the statutes is amended to read:

15 814.76 (**15m**) The supplemental food enforcement surcharge under s. 49.17
16 253.06 (4) (c).

17 **SECTION 14.** 814.80 (11) of the statutes is amended to read:

18 814.80 (**11**) The supplemental food enforcement surcharge under s. 49.17
19 253.06 (4) (c).

20 **SECTION 15.** 973.05 (2m) (r) of the statutes is amended to read:

21 973.05 (**2m**) (r) To payment of the enforcement surcharge under s. 49.17 253.06
22 (4) (c) until paid in full.

23 **SECTION 9122. Nonstatutory provisions; Health Services.**

24 (1) TRANSFER OF FOOD AND HUNGER PREVENTION PROGRAMS.

1 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
2 liabilities of the department of children and families that are primarily related to the
3 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
4 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and
5 to the state supplemental food program under section 49.17, 2007 stats., as
6 determined by the secretary of administration, shall become the assets and liabilities
7 of the department of health services.

8 (b) *Employee transfers.* The classified positions, and incumbent employees
9 holding positions, in the department of children and families that are funded with
10 general purpose revenue or program revenue and are primarily related to the food
11 distribution programs under section 49.171, 2007 stats., and section 49.1715, 2007
12 stats., to the hunger prevention program under section 49.172, 2007 stats., and to
13 the state supplemental food program under section 49.17, 2007 stats., as determined
14 by the secretary of administration, are transferred to the department of health
15 services.

16 (c) *Employee status.* Employees transferred under paragraph (b) shall have the
17 same rights and status under subchapter V of chapter 111 and chapter 230 of the
18 statutes in the department of health services that they enjoyed in the department
19 of children and families immediately before the transfer. Notwithstanding section
20 230.28 (4) of the statutes, no employee so transferred who has attained permanent
21 status in class is required to serve a probationary period.

22 (d) *Tangible personal property.* On the effective date of this paragraph, all
23 tangible personal property, including records, of the department of children and
24 families that is primarily related to the food distribution programs under section
25 49.171, 2007 stats., and section 49.1715, 2007 stats., to the hunger prevention

1 program under section 49.172, 2007 stats., and to the state supplemental food
2 program under section 49.17, 2007 stats., as determined by the secretary of
3 administration, shall be transferred to the department of health services.

4 (e) *Contracts*. All contracts entered into by the department of health and family
5 services, before July 1, 2008, or by the department of children and families that are
6 in effect on the effective date of this paragraph and that are primarily related to the
7 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
8 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and
9 to the state supplemental food program under section 49.17, 2007 stats., as
10 determined by the secretary of administration, remain in effect and are transferred
11 to the department of health services. The department of health services shall carry
12 out any such contractual obligations unless modified or rescinded by the department
13 of health services to the extent allowed under the contract.

14 (em) *Pending matters*. Any matter pending with the department of children
15 and families on the effective date of this paragraph that is primarily related to the
16 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
17 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and
18 to the state supplemental food program under section 49.17, 2007 stats., as
19 determined by the secretary of administration, is transferred to the department of
20 health services and all materials submitted to or actions taken by the department
21 of children and families with respect to the pending matter are considered as having
22 been submitted to or taken by the department of health services.

23 (f) *Rules and orders*. All administrative rules that are primarily related to the
24 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
25 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and

1 to the state supplemental food program under section 49.17, 2007 stats., as
2 determined by the secretary of administration, and that are in effect on the effective
3 date of this paragraph remain in effect until their specified expiration dates or until
4 amended or repealed by the department of health services. All orders issued by the
5 department of health and family services, before July 1, 2008, or by the department
6 of children and families that are primarily related to the food distribution programs
7 under section 49.171, 2007 stats., and section 49.1715, 2007 stats., to the hunger
8 prevention program under section 49.172, 2007 stats., and to the state supplemental
9 food program under section 49.17, 2007 stats., as determined by the secretary of
10 administration, and that are in effect on the effective date of this paragraph remain
11 in effect until their specified expiration dates or until modified or rescinded by the
12 department of health services.

13 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0394/2ins
RLR:.....

1 **Ins 5-19**

2 **SECTION 1.** ^X 49.172 (title) of the statutes is renumbered 49.76 (title).

3 **SECTION 2.** ^X 49.172 (intro.) of the statutes is renumbered 49.76 (intro.).

4 **SECTION 3.** ^X 49.172 (1) of the statutes is renumbered 49.76 (1).

5 **SECTION 4.** ^X 49.172 (2) of the statutes is renumbered 49.76 (2).

****NOTE: This is reconciled s. 49.172 (title), (intro.), (1), and (2). These SECTIONS ¹ ²
has been affected by drafts with the following LRB numbers: 0394, and 1458

have

LRB-

LRB-

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0394/2dn

RLR:.....

l b j k

Date

This draft reconciles LRB-0394/1 and LRB-1458/2. All of these drafts should continue to appear in the compiled bill.

Robin Ryan
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**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0394/2dn
RLR:bjk:md

January 30, 2009

This draft reconciles LRB-0394/1 and LRB-1458/2. All of these drafts should continue to appear in the compiled bill.

Robin Ryan
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DOA:.....Palchik, BB0084 - WIC and TEFAP transfer to DHS; electronic benefit transfer

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Currently, the state administers The Emergency Food Assistance Program (TEFAP) and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) to provide food and information about nutrition to low-income people. In addition, a state agency must annually develop a hunger prevention plan. 2007 Wisconsin Act 20 transferred the responsibility for administering TEFAP and WIC and the responsibility for developing a hunger prevention plan from the former Department of Health and Family Services to DCF. This bill transfers the responsibilities for administering TEFAP and WIC and for developing a hunger prevention plan to DHS.

Also under current law, DHS is required to deliver Food Stamp benefits by means of an electronic benefit transfer system. This bill authorizes DHS to deliver benefits that DHS administers by means of an electronic benefit transfer system if DHS: obtains any necessary federal approval for using an electronic benefit transfer system; promulgates a rule adopting an electronic benefits transfer system; and allows county and tribal governments to opt out of the electronic benefit transfer system if the cost of delivering benefits electronically is greater than delivering benefits by other means.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.437 (2) (dn) of the statutes is renumbered 20.435 (5) (dn) and
2 amended to read:

3 20.435 (5) (dn) *Food distribution grants.* The amounts in the schedule for
4 grants for food distribution programs under ss. ~~49.171~~ 46.75 and ~~49.1715~~ 46.77.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

 ****NOTE: If the DHS appropriation reorganization draft (LRB-0247) is included in the budget, s. 20.437 (2) (dn) should instead be renumbered s. 20.435 (1) (dn).

5 **SECTION 2.** 20.437 (2) (em) of the statutes is renumbered 20.435 (5) (em) and
6 amended to read:

7 20.435 (5) (em) *Supplemental food program for women, infants and children*
8 *benefits.* As a continuing appropriation, the amounts in the schedule to provide a
9 state supplement under s. ~~49.17~~ 253.06 to the federal special supplemental food
10 program for women, infants, and children authorized under 42 USC 1786.

 ****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

 ****NOTE: If the DHS appropriation reorganization draft (LRB-0247) is included in the budget, s. 20.437 (2) (em) should instead be renumbered s. 20.435 (1) (em).

11 **SECTION 3.** 20.437 (2) (gr) of the statutes is renumbered 20.435 (1) (gr) and
12 amended to read:

13 20.435 (1) (gr) *Supplemental food program for women, infants, and children*
14 *administration.* All moneys received from the supplemental food enforcement
15 surcharges on fines, forfeitures, and recoupments that are levied by a court under
16 s. ~~49.17~~ 253.06 (4) (c) and on forfeitures and recoupments that are levied by the

1 department under s. ~~49.17~~ 253.06 (5) (c) to finance fraud reduction in the
2 supplemental food program for women, infants, and children under s. ~~49.17~~ 253.06.

***NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

3 **SECTION 4.** 46.028 of the statutes is created to read:

4 **46.028 Electronic benefit transfer.** The department may deliver benefits
5 that are administered by the department to recipients of the benefits by an electronic
6 benefit transfer system if all of the following conditions are satisfied:

7 (1) The department obtains any authorization from a federal agency that is
8 required under federal law to deliver the benefits by an electronic benefit transfer
9 system.

10 (2) The department promulgates an administrative rule to deliver the benefits
11 by an electronic benefits transfer system.

12 (3) The department does not require a county or tribal governing body to use
13 the electronic benefit transfer system if the costs to the county or tribal government
14 of delivering the benefits by the electronic benefit transfer system would be greater
15 than the costs to the county or tribal government of delivering the benefits by means
16 other than an electronic benefit transfer system.

17 **SECTION 5.** 49.143 (2) (b) of the statutes is amended to read:

18 49.143 (2) (b) Establish a children's services network. The children's services
19 network shall provide information about community resources available to the
20 dependent children in a Wisconsin works group, including charitable food and
21 clothing centers; subsidized and low-income housing; transportation subsidies; the
22 state supplemental food program for women, infants and children under s. ~~49.17~~
23 253.06; and child care programs. In a county having a population of 500,000 or more,

1 a children's services network shall, in addition, provide a forum for those persons
2 who are interested in the delivery of child welfare services and other services to
3 children and families in the geographical area under sub. (6) served by that
4 children's services network to communicate with and make recommendations to the
5 providers of those services in that geographical area with respect to the delivery of
6 those services in that area.

7 **SECTION 6.** 49.17 of the statutes is renumbered 253.06, and 253.06 (2) and (5)
8 (e), as renumbered, are amended to read:

9 253.06 (2) USE OF FUNDS. From the appropriation under s. ~~20.437 (2)~~ 20.435 (5)
10 (em), the department shall supplement the provision of supplemental foods,
11 nutrition education, and other services, including nutritional counseling, to
12 low-income women, infants, and children who meet the eligibility criteria under the
13 federal special supplemental food program for women, infants, and children
14 authorized under 42 USC 1786. To the extent that funds are available under this
15 section and to the extent that funds are available under 42 USC 1786, the
16 department shall provide the supplemental food, nutrition education, and other
17 services authorized under this section and shall administer that provision in every
18 county. The department may enter into contracts for this purpose.

19 (5) (e) The suspension or termination of authorization of a vendor or eligibility
20 of a participant shall be effective beginning on the 15th day after receipt of the notice
21 of suspension or termination. All forfeitures, recoupments, and enforcement
22 assessments shall be paid to the department within 15 days after receipt of notice
23 of assessment or, if the forfeiture, recoupment, or enforcement assessment is
24 contested under sub. (6), within 10 days after receipt of the final decision after
25 exhaustion of administrative review, unless the final decision is adverse to the

1 department or unless the final decision is appealed and the decision is stayed by
2 court order under sub. (7). The department shall remit all forfeitures paid to the
3 secretary of administration for deposit in the school fund. The department shall
4 deposit all enforcement assessments in the appropriation under s. ~~20.437 (2)~~ 20.435
5 (1) (gr).

6 **SECTION 7.** 49.171 of the statutes is renumbered 46.75, and 46.75 (2) (a), as
7 renumbered, is amended to read:

8 46.75 (2) (a) From the appropriation under s. ~~20.437 (2)~~ 20.435 (5) (dn), the
9 department shall award grants to agencies to operate food distribution programs
10 that qualify for participation in the emergency food assistance program under P.L.
11 ~~98-8, as amended 7 USC ch. 102.~~

****NOTE: I replaced the public law citation with a citation to the U.S. Code. Please
verify that it is correct.

12 **SECTION 8.** 49.1715 of the statutes is renumbered 46.77 and amended to read:

13 **46.77 Food distribution administration.** From the appropriation under s.
14 ~~20.437 (2)~~ 20.435 (5) (dn), the department shall allocate funds to eligible recipient
15 agencies, as defined in the emergency food assistance act, P.L. ~~98-8, section 201A,~~
16 ~~as amended 7 USC 7501 (3),~~ for the storage, transportation, and distribution of
17 commodities provided under the hunger prevention act of 1988, P.L. ~~100-435, as~~
18 ~~amended 7 USC ch. 102.~~

19 **SECTION 9.** 49.172 (title) of the statutes is renumbered 49.76 (title).

20 **SECTION 10.** 49.172 (intro.) of the statutes is renumbered 49.76 (intro.).

21 **SECTION 11.** 49.172 (1) of the statutes is renumbered 49.76 (1).

22 **SECTION 12.** 49.172 (2) of the statutes is renumbered 49.76 (2).

****NOTE: This is reconciled s. 49.172 (title), (intro.), (1), and (2). These SECTIONS
have been affected by drafts with the following LRB numbers: LRB-0394/1 and
LRB-1458/2.

1 **SECTION 13.** 49.797 (2) (a) of the statutes is amended to read:

2 49.797 (2) (a) ~~Except~~ Notwithstanding s. 46.028 and except as provided in par.
3 (b) and sub. (8), the department shall administer a statewide program to deliver food
4 stamp benefits to recipients of food stamp benefits by an electronic benefit transfer
5 system. All suppliers, as defined in s. 49.795 (1) (d), may participate in the delivery
6 of food stamp benefits under the electronic benefit transfer system. The department
7 shall explore methods by which nontraditional retailers, such as farmers' markets,
8 may participate in the delivery of food stamp benefits under the electronic benefit
9 transfer system.

10 **SECTION 14.** 227.54 of the statutes is amended to read:

11 **227.54 Stay of proceedings.** The institution of the proceeding for review
12 shall not stay enforcement of the agency decision. The reviewing court may order a
13 stay upon such terms as it deems proper, except as otherwise provided in ss. 49.17
14 ~~(7), 96.43~~ 196.43, 253.06, and 448.02 (9).

15 **SECTION 15.** 814.75 (22m) of the statutes is amended to read:

16 814.75 (22m) The supplemental food enforcement surcharge under s. 49.17
17 253.06 (4) (c).

18 **SECTION 16.** 814.76 (15m) of the statutes is amended to read:

19 814.76 (15m) The supplemental food enforcement surcharge under s. 49.17
20 253.06 (4) (c).

21 **SECTION 17.** 814.80 (11) of the statutes is amended to read:

22 814.80 (11) The supplemental food enforcement surcharge under s. 49.17
23 253.06 (4) (c).

24 **SECTION 18.** 973.05 (2m) (r) of the statutes is amended to read:

1 973.05 (2m) (r) To payment of the enforcement surcharge under s. 49.17 253.06
2 (4) (c) until paid in full.

3 **SECTION 9122. Nonstatutory provisions; Health Services.**

4 (1) TRANSFER OF FOOD AND HUNGER PREVENTION PROGRAMS.

5 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
6 liabilities of the department of children and families that are primarily related to the
7 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
8 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and
9 to the state supplemental food program under section 49.17, 2007 stats., as
10 determined by the secretary of administration, shall become the assets and liabilities
11 of the department of health services.

12 (b) *Employee transfers.* The classified positions, and incumbent employees
13 holding positions, in the department of children and families that are funded with
14 general purpose revenue or program revenue and are primarily related to the food
15 distribution programs under section 49.171, 2007 stats., and section 49.1715, 2007
16 stats., to the hunger prevention program under section 49.172, 2007 stats., and to
17 the state supplemental food program under section 49.17, 2007 stats., as determined
18 by the secretary of administration, are transferred to the department of health
19 services.

20 (c) *Employee status.* Employees transferred under paragraph (b) shall have the
21 same rights and status under subchapter V of chapter 111 and chapter 230 of the
22 statutes in the department of health services that they enjoyed in the department
23 of children and families immediately before the transfer. Notwithstanding section
24 230.28 (4) of the statutes, no employee so transferred who has attained permanent
25 status in class is required to serve a probationary period.

1 (d) *Tangible personal property.* On the effective date of this paragraph, all
2 tangible personal property, including records, of the department of children and
3 families that is primarily related to the food distribution programs under section
4 49.171, 2007 stats., and section 49.1715, 2007 stats., to the hunger prevention
5 program under section 49.172, 2007 stats., and to the state supplemental food
6 program under section 49.17, 2007 stats., as determined by the secretary of
7 administration, shall be transferred to the department of health services.

8 (e) *Contracts.* All contracts entered into by the department of health and family
9 services, before July 1, 2008, or by the department of children and families that are
10 in effect on the effective date of this paragraph and that are primarily related to the
11 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
12 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and
13 to the state supplemental food program under section 49.17, 2007 stats., as
14 determined by the secretary of administration, remain in effect and are transferred
15 to the department of health services. The department of health services shall carry
16 out any such contractual obligations unless modified or rescinded by the department
17 of health services to the extent allowed under the contract.

18 (f) *Pending matters.* Any matter pending with the department of children and
19 families on the effective date of this paragraph that is primarily related to the food
20 distribution programs under section 49.171, 2007 stats., and section 49.1715, 2007
21 stats., to the hunger prevention program under section 49.172, 2007 stats., and to
22 the state supplemental food program under section 49.17, 2007 stats., as determined
23 by the secretary of administration, is transferred to the department of health
24 services and all materials submitted to or actions taken by the department of

1 children and families with respect to the pending matter are considered as having
2 been submitted to or taken by the department of health services.

3 (g) *Rules and orders.* All administrative rules that are primarily related to the
4 food distribution programs under section 49.171, 2007 stats., and section 49.1715,
5 2007 stats., to the hunger prevention program under section 49.172, 2007 stats., and
6 to the state supplemental food program under section 49.17, 2007 stats., as
7 determined by the secretary of administration, and that are in effect on the effective
8 date of this paragraph remain in effect until their specified expiration dates or until
9 amended or repealed by the department of health services. All orders issued by the
10 department of health and family services, before July 1, 2008, or by the department
11 of children and families that are primarily related to the food distribution programs
12 under section 49.171, 2007 stats., and section 49.1715, 2007 stats., to the hunger
13 prevention program under section 49.172, 2007 stats., and to the state supplemental
14 food program under section 49.17, 2007 stats., as determined by the secretary of
15 administration, and that are in effect on the effective date of this paragraph remain
16 in effect until their specified expiration dates or until modified or rescinded by the
17 department of health services.

18 (END)